



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/009,511      | 04/29/2002  | Phillip Mackie       | 2625-1-002          | 4998             |

7590

04/16/2003

Klauber & Jackson  
Continental Plaza  
411 Hackensack Avenue  
Hackensack, NJ 07601

EXAMINER

NAKARANI, DHIRAJLAL S

ART UNIT

PAPER NUMBER

1773

DATE MAILED: 04/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/009,511

Applicant(s)

MACKIE ET AL.

Examiner

D. S. Nakarani

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicants are requested to NOTE that the original application as filed had claims 1-12. The amendment filed August 27, 2002, canceling claims 1-15 and adding claims 16-27 has been entered. The amendment filed December 2, 2002 amended claims 17-27 has been entered. Therefore claims 16-27 are present for prosecution. These claims have been renumbered as per 37 CFR 1.126 as claims 13-24.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13-20 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Feder (US Patent 5,140,061).

Feder discloses a cork stopper coated with a coating of cross-linked silicone elastameor (col. 8 lines 53-62). The composition forming silicone elastamer is cross-linked amino and/or amido silane (Abstract). The claimed flavor active compound

Art Unit: 1773

trichloroanisoles are deemed to be part of a cork and is inherently there unless shown otherwise.

5. Claims 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feder (US Patent 5,140,061) in view of Feder et al (US Patent 5,721,026).

Feder which has been discussed above, fail to disclose polyvinyl acetate in the coating composition.

Feder et al disclose a coating composition as disclosed by Feder. Feder et al disclose addition of polyvinyl acetate to the coating composition for lowering volume shrinkage and lowering modulus (col. 6, line 66 to col. 7, line 5 and claim 21).

Therefore it would have been obvious to a person of ordinary skill in the art at the time of this invention made to utilize disclosure of Feder et al in the invention of Feder to add polyvinyl acetate to lower modulus and volume shrinkage.

No claims are allowed.

6. The references recited in the International Search report has not been received. Therefore references recited in the International Search report has not been considered. If applicants desire to make these references of record, PTOL 1449 listing all references and copies of references should be provided to this Office.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. S. Nakarani whose telephone number is (703) 308-2413. The examiner can normally be reached on Tuesday-Friday from 7 a.m. to 5:30 p.m..

Art Unit: 1773

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Paul J. Thibodeau can be reached on (703) 308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
**D. S. NAKARANI**  
**PRIMARY EXAMINER**

D.S. Nakarani/dh  
April 16, 2003